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The Mexican Oil Dispute

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with the aid of the Research Staff of the Foreign Policy Association

THE Mexican petroleum controversy brings to light the underlying conflict of forces between capital-exporting and capital-importing countries. This conflict promises to affect the relations of the United States not only with Mexico, but eventually with various other Latin American nations. It illustrates the type of economic difficulty which the Good Neighbor policy must seek to adjust if it is not to lose reality as a political program.

Mexico's expropriation of the oil properties in March 1938 came as the sudden climax of a 20-year struggle, waged between the Mexican government and labor on the one hand, and the British and American governments and oil companies on the other. Ever since the nationalist emphasis of Mexico's social revolution found expression in Article 27 of the 1917 Constitution, Mexico has recurrently sought to wrest control and ownership of the industry from the foreign companies. Its economists have argued that if it is to attain "economic independence," it must build up a capital fund, for which the only feasible source is the profits of industries now owned by foreign capital. Article 27 declared petroleum resources to be the property of the nation, but also stated that "private property shall not be expropriated except for reasons of public utility and by means of (*mediante*) indemnification." The meaning of these provisions led to an extended controversy with the United States, which was ended only in 1927, as the result of a compromise solution worked out by President Calles and Ambassador Dwight Morrow. According to this agreement, the government recognized oil rights acquired before the 1917 Constitution went into effect and issued to the owners "confirmatory concessions" of a permanent character. Nonetheless Mexican leaders persisted in their campaign to supplant the foreign companies. During the past ten years the government has withheld issuance of numerous "confirmatory concessions" and has moved to place oil reserves in the hands of a federal agency, now termed the General Administration of National Petroleum, which controls the greater part of oil lands.[1] In 1937 this government oil company was responsible for approximately 3 per cent of the total national production.

Mexico's move to expropriate the oil properties was directly occasioned by a labor struggle. In 1936 the various unions in the oil industry merged to form a single industrial union, called the Syndicate of Petroleum Workers, which affiliated with the Confederation of Mexican Workers, a national federation roughly similar in philosophy to the C.I.O.

In October 1936 the Syndicate held its first general convention, which approved a collective contract[2] to be submitted to all the companies in the industry. Two assumptions underlay the demands for betterment incorporated in this contract. The Mexican workers argued, first, that their working conditions and wages were markedly inferior to those prevailing for similar labor in the United States, despite the fact that the work was the same in the two cases. Second, they alleged that the oil companies operating in Mexico were better able to make concessions than the companies in the United States, on the ground that the former needed to invest less capital for an equal amount of production, paid lower taxes, and made larger profits. Furthermore, it was contended that "real" wages in the oil industry had suffered a serious decline since 1934, due to a significant increase in the cost of living.[3] The companies denied the valid-

1. For a brief summary of these developments, cf. Charles A. Thomson, "Mexico's Challenge to Foreign Capital," *Foreign Policy Reports,* August 15, 1937, pp. 130-31, 134-35.
2. A collective contract, according to the Mexican labor code, is one between one or more labor unions and one or more employers or groups of employers.
3. According to the report of the experts' commission (cf. p. 123), the cost of a "basket of provisions" in the petroleum fields, representing the most important food articles consumed by an average family during one week, increased from 1934 to June 1937 by 88.96 per cent, while nominal wages increased

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ity of the comparison between the respective status of oil labor in Mexico and the United States, arguing that in the latter country labor was more efficient, and both general wage levels and the cost of living were higher than in Mexico. They also contended that Mexican oil workers were the best paid of any industry in the country.[4]

The Syndicate submitted its demands on November 3, 1936. The companies were reported as then paying to their workers in wages and social welfare benefits (including medical attention, social services and retirement pensions) the sum of 49,136,620 pesos annually. According to labor spokesmen, the demands of the Syndicate signified an increase over this amount of 133 per cent, or 65,474,840 pesos (28,149,560 in wages and 37,325,280 in welfare benefits), which would have made the companies' annual labor bill total 114,611,460 pesos. But the companies themselves declared that labor costs would be increased approximately to 300,000,000 pesos yearly, or about 500 per cent.[5] They believed that the demands were so framed as to justify seizure of the properties under the guise of a labor struggle. They held that the controversy did not represent a bona fide labor dispute, but was to be interpreted as a step in a far-reaching seizure plan.[6]

On the appeal of President Cárdenas[7] for a peaceful solution, it was agreed to hold a joint conference for discussion of the demands listed in the collective contract. The conference was convened at Mexico City in early December 1936, and continued its sessions until May 25, 1937.

THE OIL WORKERS STRIKE

When the period allotted for the joint conference ended with no agreement in sight, the Syndicate called a strike for midnight of May 27, 1937. This move, involving 18,000 workers, brought the oil industry to a complete standstill. The companies declared themselves willing to grant concessions, with a total value of 13,000,000 pesos,[8] but this compromise offer was refused by the union. Presidential pressure was now applied, General Cárdenas urging the workers to lift the strike and submit their case to arbitration by the Labor Board.[9] The Syndicate agreed to call off the strike, but instead of accepting arbitration, it moved on June 7 to present the issue to the Labor Board as a conflict of "economic order." In consequence the strike was ended and work resumed on June 9.

For conflicts of "economic order," the Mexican Labor Code[10] authorized recourse to an investigation by experts, when changed economic conditions—such as a serious depression—made fulfillment of labor contracts impossible. The existing status would be maintained while the investigation was under way. The commission of experts was to have the widest possible latitude in its study and the Labor Board might use its findings as basis for a decision which should have the character and legal force of an arbitral award.

The oil companies opposed classification of the dispute as a conflict of "economic order," alleging that, outside of the demands presented by the Syndicate, no important change had taken place in economic conditions which would justify recourse to this procedure. But their contention was overruled by the Labor Board.

The experts' commission was promptly organized,[11] and after securing voluminous material from the companies, the labor unions and other

only 45.91 per cent. Thus there was an estimated reduction in real wages of 22.82 per cent. Moreover, it was stated that wages in 1934 were below those prevailing in 1925; so that labor supporters declared that the real wage in 1937 was barely equivalent to 60 per cent of the 1925 wage. Cf. Federico Bach and M. de la Peña, *México y Su Petróleo, Síntesis Histórica* (Mexico City, Editorial "México Nuevo," 1938), p. 44.

4. A comparison of oil wages in Mexico and Venezuela, a competing country, might be more pertinent than one between Mexico and the United States.

5. Cf. Universidad Obrera de México, *El Conflicto del Petróleo en México, 1937-1938* (Mexico City, 1938), pp. 17, 18; and *Expropriation* (New York City, Huasteca Petroleum Company and Standard Oil Company of California, 1938), p. 11. From November 1933 to March 1937 the Mexican peso was equivalent to approximately 28 United States cents.

6. In this connection the speech in New York City on June 24 of Vicente Lombardo Toledano, leader of the Confederation of Mexican Workers, is cited. Referring to President Cárdenas' refusal of the oil companies' final 26,000,000-peso offer, he said: "If we had accepted, it would have been a victory of labor over capital within the Mexican oil industry, but by refusing the offer, it was a great victory of the Mexican people against foreign imperialism." *New York Times,* June 25, 1938.

7. The Cárdenas administration has been characterized by a strongly pro-labor orientation; government agencies have been wont to favor the worker rather than the employer. On September 1, 1936 President Cárdenas announced that, "for the betterment of wages," the government would seek "as a limit the economic capacity of the employers." For a general review of the Cárdenas régime, cf. Charles A. Thomson, "Mexico's Social Revolution," *Foreign Policy Reports,* August 1, 1937.

8. This amount was in addition to increases approximating 7,000,000 pesos, which had been gained by the workers during the early months of 1937, prior to the May strike. Thus the total net increase *over 1936 levels* would have reached the sum of 20,000,000 pesos.

9. This agency bears the official title of Federal Board of Conciliation and Arbitration. The Central Board at Mexico City is made up of seven special boards, each containing one representative of capital, one of labor and one of the government.

10. *Diario Oficial,* August 28, 1931. Articles 570-583 cover conflicts of "economic order."

11. It was composed of Efraín Buenrostro, Assistant-Secretary of the Treasury Department (president), Mariano Moctezuma, Assistant-Secretary of the Department of National Economy, and Professor Jesús Silva Herzog, a well-known government economist (secretary), who was Marxian in philosophy.

sources, it presented its report to the Labor Board on August 3, 1937. Its investigation had been divided into two general parts: a broad historical survey of the oil industry from 1901 to 1933; and a detailed study of the three-year period 1934-1936.[11a]

The experts in their report asserted that average production per well and per worker is higher in Mexico than in the United States; that average capital invested per producing well is much less than in the United States; also that taxes, rentals and royalties are lower. They declared that in 1935 the Mexican oil industry had an average of 8.64 pesos invested for every barrel of oil produced, while in the United States the corresponding sum was 48.12 pesos. It was estimated that for the three-year period 1934-1936 the total capital stock of the oil companies in Mexico had averaged annually 164,000,000 pesos, and their total assets 335,000,000 pesos.[12]

As a result of all these factors, the petroleum industry in the United States was stated to have made a profit in 1935 of 1.44 per cent, while in Mexico the corresponding figure was 17.82 per cent with an average of 16.81 per cent for the 1934-1936 period. The report put the profits of the Mexican oil industry at 51,000,000 pesos in 1934, 62,000,000 in 1935 and 56,000,000 in 1936. Of the last figure, 43,000,000 pesos were said to have gone to the Aguila Company and its affiliates.[13]

The companies on their part contended that the experts' report was "clearly prejudiced and impassioned," and marked by numerous inaccuracies. They argued that in arriving at profit and cost figures the experts' commission had refused "to employ accounting principles and practices universally accepted." In contrast to the figures of 16.81 per cent average profit for 1934-1936 presented by the experts, they asserted that the books of the nine principal companies showed the correct average to be 7.5 per cent. They reported that net profits for 1934-1936 had run less than 23,000,000 pesos per year.[14]

LABOR BOARD AWARD

Following presentation of the experts' report, Special Group Seven of the Labor Board[14a] held hearings, and on December 18 this group handed down an award which followed substantially the findings of the experts. Increases in wages and welfare benefits totaling 26,329,393 pesos were recommended. The award provided for a 40-hour week with pay for 56 hours; vacations of 21-30 working days, in addition to 16 other holidays on full pay; double pay for all overtime, and triple pay for work on holidays and rest days; retirement pensions available at the age of 55; indemnification for accidents and illness, both vocational and non-vocational. The companies were to furnish housing facilities, and were also required to provide free medical, surgical, dental, laboratory and hospitalization services, both for employees and for members of their families, in any case of illness or injury; and (with limited exceptions) regardless of cause. They were to contribute an amount equivalent to one-tenth of their annual wage bill towards a savings fund for the workers; and in addition were to pay one-half the premium on life insurance policies of 4,000 pesos for each permanent employee.

The award also placed limitations on the companies' control of personnel. Promotions were to be based on seniority. No reduction in personnel or no discharge could be effected without consulting the union; but the companies were obliged by the so-called "exclusion clause" to discharge any worker expelled by the union. If workers had to be laid off, non-union individuals were to be let out first. But what most aroused company opposition was the provision affecting so-called "confidential employees" (executives and persons in other positions of trust and responsibility), which markedly limited their number. Positions such as managers of refineries and of production, traffic, credit and transportation departments, cashiers, and paymasters were to be filled by union members, who were also to be entitled to occupy half of the positions in the legal departments.[15]

11a. The companies had furnished figures covering the 10-year period, 1927-1936, arguing that such a period would provide a more accurate picture than the 3-year period of gradual economic recovery which disregarded years of depression and losses.

12. With the exception of the Mexican Gulf Oil Company, whose books had not been investigated. Cf. footnote 24.

13. The Spanish title of the experts' report was *Informe que rinde a la Junta Federal de Conciliación y Arbitraje la Comisión Pericial en el conflicto de orden económico en la industria petrolera* (Mexico City, August 3, 1937). The report, which with annexes ran to some 900,000 words, was originally published only in typescript and with a limited number of copies. Its findings are summarized in *The Mexican Oil Strike of 1937—The Economic Issue*, Vol. II (Pamphlet published by the Compañía Mexicana de Petróleo "El Aguila," S.A., Huasteca Petroleum Company, and other oil companies), pp. 13-24; Bach and de la Peña, *México y Su Petróleo*, cited, pp. 46, 47; and Universidad Obrera de México, *El Conflicto del Petróleo en México, 1937-1938*, cited, pp. 21-26.

14. Cf. *The Mexican Oil Strike of 1937—The Economic Issue*, cited, pp. 26, 27, 66.

14a. The companies had held that the case should be heard by the whole Board, and not by one Special Group. They also objected to the appointment of a special chairman, Lic. Gustavo Corona, whom they regarded as biased. They argued that in reality a special tribunal had been set up, and that the procedures followed were obviously illegal.

Of the 26,329,393 pesos advance approved by the Labor Board,[16] 8,657,647 were for wages and 17,671,746 for welfare benefits. The labor unions forming the Syndicate of Petroleum Workers indicated their willingness to accept the award, which scaled down their demands from 65,000,000 to 26,000,000 pesos but gave them approximately a one-third increase. The companies declared themselves unable to go beyond the net increase of 20,000,000 over 1936 levels previously offered,[17] and declared that the projected increase would cost, not 26,000,000 pesos, but 41,000,000 pesos.

On December 28, 1937, the oil companies filed a petition for *amparo* or injunction[18] with the Mexican Supreme Court against the findings of the Labor Board. Pending the decision of the Court, the recommended increases did not go into effect. During the two months the case was before the tribunal, public tension became acute. On the one hand, President Cárdenas, in an address on February 24, 1938 before the labor congress of the C.T.M., criticized the attitude of the oil companies as evidenced in "the sudden withdrawal of their bank deposits and in the launching of a deliberate publicity campaign" to disturb economic conditions and apply pressure on the courts.[19]

The oil companies on their part argued that the entire policy of the government was biased in favor of labor. They resented the statements of President Cárdenas to the labor congress, which were interpreted as designed to influence the forthcoming decision of the Supreme Court. It was recalled that Mexican executives had seldom suffered difficulty in securing cooperation from the Court, a tendency which certainly had not been weakened by a change effected early in the Cárdenas administration fixing the terms of the justices at six years instead of life.[20]

SUPREME COURT DECISION

The Supreme Court in its decision of March 1 denied the injunction requested by the oil companies, and sustained the Labor Board in its findings. On announcement of the decision the seventeen companies issued a statement declaring that their "inability to comply remains unaltered by today's verdict. Accordingly, they regret deeply the decision of the Fourth Section of the Supreme Court on their appeal for a permanent injunction, which cannot but have serious consequences for the companies, for their employees and for those dependent on the industry."[21]

Following the Supreme Court decision, the Labor Board fixed noon of Monday, March 7, as the deadline for compliance with the award. When this hour passed without any move on the part of the companies, the government, acting on petition of the union, embargoed the corporations' bank deposits in the amount necessary to cover payrolls during the strike of May-June 1937. But the authorities made no further move to take over the management of the oil properties, and President Cárdenas was reported in conference with petroleum executives, in an attempt to work out some compromise solution. The President personally promised the corporations that the wage bill would not run to the 41,000,000 pesos which their experts

15. The full Spanish text of the award is given in *Laudo pronunciado por la Junta Federal de Conciliación y Arbitraje en el Expediente formado con motivo del conflicto de orden económico planteado a diversas Empresas Petroleras por el Sindicato de Trabajadores Petroleros de la República Mexicana* (Mexico City, Ediciones de "El Nacional," 1937). For summaries, cf. *The Mexican Oil Strike of 1937—The Decision of the Labour Board,* Vol. III, cited, pp. 15-29; *Expropriation,* cited, pp. 13-17. The government's own oil company was not included in the award.

16. This differed slightly from the sum recommended by the commission of experts, which totalled 26,332,756 pesos. In addition the Labor Board award made the increases retroactive to May 28, 1937, involving an estimated 14,000,000 pesos, and further, assessed the companies for pay of the workers during the 1937 strike, to the amount of 1,300,000 pesos.

17. Cf. footnote 8. The oil companies issued a statement on December 20 charging the Labor Board "with having almost totally ignored the overwhelming proofs presented in refutation of the official experts' report, in violation of the express provisions of the Labour Law, and with having accordingly been guilty of a glaring denial of justice in the decision rendered on December 18." *The Mexican Oil Strike of 1938—The Decision of the Labour Board,* Vol. III, cited, pp. 13, 14. This source presents in annexes the varying estimates concerning the cost of the award.

18. The contents of the writ of *amparo* are summarized in *The Mexican Oil Strike of 1937—The Decision of the Labour Board,* Vol. III, cited, pp. 31-37.

19. *El Universal* (Mexico City), February 25, 1938. It is declared that the companies had never carried large balances in Mexico, and that the amounts withdrawn by them represented less than 4 per cent of the total decline in bank deposits at Mexico City, which between September 30, 1937 and March 19, 1938 showed a reported drop of 85,000,000 pesos.

20. In addition to the statement by President Cárdenas, Vicente Lombardo Toledano, Secretary-General of the C.T.M., asserted on February 22 his "profound conviction that during this week the Supreme Court will render its decision confirming the award of the Federal Labor Board." Earlier, on February 11, Señor Antonio Villalobos, Minister of Labor, had declared during a visit to the oil fields: "It is my belief that the Supreme Court will deny the injunction." *Expropriation,* cited, pp. 19-24. Furthermore, the oil companies had challenged the right of Supreme Court Justice Xavier Icaza to sit in the case, charging that he had personally intervened in the dispute and that he was a friend of Vicente Lombardo Toledano, leader of the C.T.M. He subsequently excused himself from joining in the verdict, but at the time the decision was handed down read a statement from the bench, in which he admitted having intervened in the conflict, and declared that he had done so because "this is not a conflict of legal character, but a grave conflict of political character." *El Universal,* March 2, 1938.

21. *New York Times,* March 2, 1938. Earlier the companies had argued that it was impractical and unfair to impose a lump judgment on seventeen different companies, whose individual capacity to meet the terms varied widely.

had estimated, but would be held to a maximum of 26,300,000 pesos.[22] He did not, however, make any detailed suggestions for limiting the award to the smaller figure. The companies were reported to have raised their offer to 22,500,000 pesos and finally to the full 26,000,000, on condition that their control of personnel and other questions of management were settled satisfactorily.[23] But the Mexican authorities declined to accept this proviso and thus agreement proved impossible.

On March 14 the Labor Board warned the companies they must accept the findings by the following day. On that date, the companies formally advised the Board that they were unable to comply. Two days later the Syndicate of Petroleum Workers petitioned the Board to end the labor contract between the companies and the union, thus making the former liable under the Labor Law for dismissal wages to all their employees. On March 18 the Board granted the unions' demand and formally declared the contract broken. In consequence, union leaders ordered work in the oil fields suspended at midnight of the same day. That evening President Cárdenas issued his decree expropriating the properties of seventeen British and American companies, representing chiefly the Royal Dutch-Shell, the Standard Oil and the Sinclair groups.[24]

CARDENAS EXPROPRIATES PROPERTIES

This action against the companies was based on the Expropriation Law of November 1936,[25] which authorized seizure of private property not merely for reasons of "public necessity," but rather on the broader ground of "public and social welfare." In the oil decree the properties of the seventeen companies were declared expropriated for "public utility." The companies were to receive payment within ten years from a certain percentage —to be determined later—of the petroleum and by-products extracted from the expropriated wells, such indemnity to be calculated on the basis of the taxable value of the properties.[26]

The expropriation move came as a surprise to many observers, who had expected that the government, in accord with a provision of the Labor Code, would limit its action to establishing a receivership over the properties, which would either pay off the workers, or continue operations under the conditions laid down in the Labor Board award. But in a statement to the nation issued by President Cárdenas on March 18, he declared that the possibility of a receivership had been rendered nugatory by the companies' "withdrawal of their funds prior to the decision of the High Court." Such a course of action would "protract a situation that must be dealt with at once, if national prestige is to be upheld." If certain properties of the companies were only attached, "the companies would assuredly place obstacles against the normal course of production and the marketing of oil." Thus, oil output would be reduced and the operation of an industry essential to national welfare would be seriously affected, causing "a crisis which would threaten not only our progress but even the very peace of the country. . . . If the State once lost its economic power, its political power would be lost and chaos result."[27] For their part the companies asserted they had never objected to the appointment of a receiver, and denied the validity of Cárdenas' argument concerning withdrawal of funds since they had never maintained large balances in Mexico. In their opinion, the Expropriation Law was contrary to the Mexican Constitution and represented a blanket license to the President to seize practically any private property he desired.

By the Cárdenas expropriation decree, Mexico threw down the most direct challenge to foreign

22. *El Nacional* (Mexico City), March 8, 1938.

23. The companies' statement declared they had informed the Labor Board that the "companies will be able to pay 26,000,000 pesos if the contract arrangements with their workers are arranged in such a manner as to give them control of their business, thereby leaving them some possibility of increasing revenue and economic capacity, an indispensable factor in attempting to meet the increased labor costs." *New York Times*, March 19, 1938.

24. Of the seventeen companies, the Compañía Mexicana de Petróleo "El Aguila"; Compañía Naviera de San Cristóbal, S.A.; Compañía Naviera San Ricardo, S.A.; and Compañía Mexicana de Vapores San Antonio, S.A. are subsidiaries of the Royal Dutch-Shell, representing British-Dutch capital. The remainder are American, the Standard Oil group being made up of the Huasteca Petroleum Company (subsidiary of Standard Oil of New Jersey); California Standard Oil Company of Mexico; and the Richmond Petroleum Company de México. In the Sinclair group are the Sinclair Pierce Oil Company; Mexican Sinclair Petroleum Corporation; Stanford y Compañía Sucesores S. en C.; Penn Mex Fuel Company; and the Consolidated Oil Company of Mexico. Other companies are the Compañía Petrolera El Agwi; Compañía de Gas y Combustible Imperio; Sábalo Transportation Company; Cacalilao, S.A.; and Clarita, S.A. The Mexican Gulf Oil Company was not included in the group. This company did not have a collective contract with its workers, who were reported never to have asked for such an agreement. Cf. *Laudo*, p. 1. The text of the decree is given in *Diario Oficial*, March 19, 1938. The properties of various producing companies not listed in the expropriation decree were also reported to have been seized.

25. *Ibid.*, November 25, 1936. For discussions of the constitutionality of this legislation, cf. Henry P. Crawford, "Expropriation of Petroleum Companies in Mexico," *Comparative Law Series* (United States Department of Commerce, Bureau of Foreign and Domestic Commerce, Division of Commercial Laws), April 1938; and Roscoe B. Gaither, "The Mexican Expropriation of Oil Properties," *United States Law Review* (New York City), June 1938.

26. The companies' version of events from the Supreme Court decision to the expropriation decree is given in *The Oil Strike of 1937—The Expropriation Decree*, Vol. IV, cited.

27. *El Nacional*, March 19, 1938.

capital it had ever attempted. The move promised to carry problems of the utmost difficulty in its train. To what degree and with what promptness could Mexico make the promised compensation for the properties seized? Payment had been promised only in oil, but could Mexico find markets for its petroleum exports adequate to make such payment possible? Would the character, amount and rate of compensation possible for Mexico be satisfactory to the oil companies and to the governments of the United States and Great Britain?

With these questions of external policy were intertwined pressing domestic issues. Could Cárdenas mobilize political support sufficiently strong and united to see him through the economic "hard times" which the expropriation move might bring to Mexico? Specifically, could the government command the administrative and technical skills to run the oil industry efficiently, and at the same time make enough profit to satisfy the demands of the workers?

President Cárdenas first addressed himself to internal problems. In his message to the people of March 18, he appealed for the support of the whole nation in the expropriation program. At the call of the Confederation of Mexican Workers, demonstrations in favor of the petroleum policy were held on March 23 throughout the country, climaxed by a monster parade of some 200,000 persons in Mexico City. A meeting of all the state governors voiced unanimous backing for the Cárdenas move, and offered to cede to the federal government 5 per cent of the states' revenues. In a session with cabinet members, the governors suggested the issuance of "Bonds of National Redemption" to the sum of 100,000,000 pesos to help in payment of the oil debt. But on June 26 the government abandoned plans for the bond issue.

In addition to the loan proposal, a campaign of popular appeal was launched, inviting individual and group contributions for a "national cooperation" fund. Women offered their jewels and silverware; labor unions voted one day's pay per month. But possibly most significant of all was the support voiced by Church leaders; Cárdenas' conciliatory policy had served to allay the recurring friction between civil and religious authorities. The Archbishop of Guadalajara, Monseñor José Garibi y Rivera, in a circular issued on April 4, ordered collections in the churches for the fund to pay the oil debt. In a public statement of April 29 the entire Mexican hierarchy urged gifts by Catholics to the government fund and declared that "this contribution will be an eloquent testimonial that Catholic doctrine stimulates fulfillment of civic duties and provides a solid spiritual base for true patriotism.[28]

In consequence, with its domestic position securely fortified, the government now decided to scotch the long-standing threat of revolt on the part of General Saturnino Cedillo, reputed "Fascist" and prominent champion of Mexico's conservative anti-Cárdenas forces. When the oil controversy revived talk of a Cedillo rebellion, President Cárdenas on May 18 moved suddenly to San Luis Potosí and threw down the gage to the rumored trouble-maker.[29] He called on the ex-general to surrender all arms and munitions in his power to the federal army. Cedillo failed to comply with this order, and on May 20 his followers were reported to have taken the field. But the rebellion failed to win effective support, and within ten days the erstwhile governor had been driven into the hills, and his supporters reduced to a few scattered guerrilla bands.

General Cárdenas' victories on the economic front were less dramatic and less substantial than those gained in the political field. The "boom" which had favored the first three years of his term with mounting revenues had begun to recede in the fall of 1937. Mexico had been losing gold and exchange for approximately nine months before the seizure of the oil properties. Between August 1937 and March 12, 1938, the metallic reserves of the Bank of Mexico dropped from 194,000,000 pesos to 110,000,000, or within 10,000,000 pesos of the legal limit.[30]

The announcement on January 11, 1938 that the United States would buy 35,000,000 ounces of silver (worth about $15,750,000), in addition to regular purchases of 5,000,000 ounces monthly, had saved Mexico from a difficult situation. But with the oil expropriation decree and the subsequent suspension by Washington of silver purchases, the government abandoned support of the peso, which slumped from a value of 27.80 United States cents to 20 cents before recovering to approximately 21 cents.[30a] Mexico thus chose to move against the oil companies at a time when it was entering an economic recession, and this factor distinctly weakened the government's position.

Nonetheless the Cárdenas régime succeeded in establishing a reasonably efficient administration of the oil industry. A Council for Petroleum Ad-

28. *El Universal*, April 5, May 3, 1938.

29. Government supporters declared that on May 15 Cedillo had issued a manifesto, in which the state legislature and governor of San Luis Potosí had disavowed the federal government.

30. It was reported that by June 1, 1938, metallic reserves had further declined to 85,000,000 pesos.

30a. For a brief review of Mexico's currency policy since 1905, cf. *New York Times*, April 3, 1938.

ministration has run the industry, headed by Finance Minister Eduardo Suárez, with Minister of National Economy Efraín Buenrostro second in command. Three posts were allotted to union representatives. In the second half of June oil production was reported at approximately 65 per cent of its former total, a proportion estimated in some quarters as adequate to permit the nationalized administration to break even on the cost of operation.[31]

But labor in the oil industry had been compelled to forego the benefits granted in the Labor Board award and the Supreme Court decision. Payrolls declined, due to reductions in overtime pay and other items. Workers did not receive the 40-hour week, or the welfare provisions demanded from the foreign companies. Only on July 22 did the government move to raise wages, and increases then approved were from 8 to 15 per cent below the scale adopted by the Labor Board. At the same time, reductions ranging from 15 to 25 per cent were made in the salaries of administrative posts held by "confidential employees."[32]

But what of the external problems which seizure of the oil properties had occasioned? The companies, standing firm in their position that justice required return of their properties, announced on March 20 they would exhaust all legal recourse to the Mexican courts. On April 4 they filed an injunction pleading that the expropriation law and the oil expropriation decree were unconstitutional. When this was denied by the Federal District Court, the companies filed on June 15 a final appeal before the Supreme Court.

HULL DISPATCHES NOTE

On March 21 four American companies had also presented to the Department of State a brief claiming denial of justice. Officials took no action until March 27 when, in apparent reprisal against the Mexican seizure, Secretary of the Treasury Morgenthau announced that monthly purchases of Mexican silver would not be continued after April 1.[33]

Washington also presented a note of protest to Mexico City on March 27. Its contents have been kept secret, but it was reported to recognize Mexico's sovereign right to expropriate private property while demanding that prompt and adequate compensation be made.[34] Dispatch of the note was followed by the issuance on March 30 of a public statement by Secretary of State Hull, which read as follows:

"This government has not undertaken and does not undertake to question the right of the Government of Mexico in the exercise of its sovereign power to expropriate properties within its jurisdiction. This government has, however, on numerous occasions and in the most friendly manner pointed out to the Government of Mexico that in accordance with every principle of international law, of comity between nations and of equity, the properties of its nationals so expropriated are required to be paid for by compensation representing fair, assured, and effective value to the nationals from whom these properties were taken."[35]

Mexico's reply of March 31, which was signed by President Cárdenas himself, was couched in conciliatory terms, assuring Washington that "Mexico will know how to honor its obligations of today and its obligations of yesterday."[36] The interchange of notes served to clear the air of tensions which had accumulated following the expropriation decree and the suspension of silver purchases. Concord was further promoted by President Roosevelt's reported satisfaction with the progress of the negotiations. It was intimated that he favored basing compensation on actual investment, less depreciation, but not on prospective profits.[37]

But London's policy, at least for a time, was not to parallel that of Washington. Great Britain, much more dependent than the United States on far-flung investments and commercial interests, was concerned to defend the rights of private property. An even more vital factor was the supply of oil for its navy. On November 12, 1937 the Aguila Company had signed a royalty contract with the Mexican government, which promised to increase production sufficiently to free Britain from fear of a war shortage, should Near Eastern shipments

31. Cf. three articles by Frank L. Kluckhohn in the *New York Times,* June 19, 22 and 23, 1938.

32. *El Universal,* July 23, 1938.

33. At the time critics both in Congress and the press were charging the Roosevelt administration with subsidizing through silver purchases the Mexican government in its expropriation program. The Morgenthau announcement may have been motivated in part by the desire to remove the basis for these attacks. The United States under its silver purchase program had provided the most important market for Mexican silver. The suspension of purchases had in fact only a temporary effect; for the United States continued to purchase Mexican silver, not directly from the Mexican government, but from the mining producers, three-fourths of whom were reported to be Americans.

34. According to Mexican sources, the note was afterward withdrawn or suspended, since Mexico made its immediate publication a condition for its reception. But this assertion is denied in the United States. The State Department apparently believed that an amicable settlement could be achieved more easily, if public discussion of the controversy were minimized. President Cárdenas declared on July 19, 1938 that Mexico had received no formal note from the United States.

35. Department of State, *Press Releases,* April 2, 1938.

36. *Ibid.*

37. *New York Times,* April 2, 1938. But in his World's Fair speech of June 30, President Roosevelt took occasion to emphasize that the Good Neighbor policy was "bilateral and multilateral and that the fair dealing which it implies must be reciprocated." *New York Times,* July 1, 1938.

through the Mediterranean be cut off. Further, the expropriation move had cost the British companies almost twice as much as their American associates.[38]

BRITAIN PROTESTS

At the moment, then, when the United States and Mexico seemed in a fair way of finding calmer waters, Britain loosed a blast of protest, which by its vigor made Washington's position seem more conciliatory. In a note delivered on April 8 it defended the interests of the Aguila Oil Company, subsidiary of the Royal Dutch-Shell, and producer of approximately 60 per cent of Mexico's current output. While London as well as Washington recognized "the general right of a government to expropriate in the public interest and on payment of adequate compensation," it contended that "this principle does not serve to justify expropriations essentially arbitrary in character." Criticism was voiced of the Supreme Court's decision, since the Court had "ignored the fact that essential evidence had been improperly excluded, inadequately considered or unjustifiably overridden by experts and the Labour Board." The note continued that in the present case the British government had "difficulty in escaping the conclusions that . . . expropriation was tantamount to confiscation carried out under a veil of legality formed by basing it upon labour issues; and that the consequences have been a denial of justice and a transgression by the Mexican Government of the principles of international law." In conclusion, London demanded restoration of the properties.[39]

Mexico replied to the British note on April 12. It pointed out that the Aguila Oil Company was a Mexican corporation and "therefore the defence of its interests does not appertain to a foreign State."[40] It also contended that in cases of expropriation "the grounds of public interest may be determined by every State at its own discretion," and that in the present instance the ground of public interest derived from "the contempt of court on the part of the companies in the face of a decision rendered by the highest court of the land." It maintained that it was impossible to speak of a denial of justice while legal recourse had not yet been exhausted, and reiterated the purpose of the government to make compensation.[41-42]

Following a second exchange of notes on April 21 and 26, a third note presented by London on May 11 brought British-Mexican relations to the breaking point. Two weeks earlier Britain's purpose to boycott Mexican oil had been openly expressed, when Richard A. Butler, Undersecretary for Foreign Affairs, in a written reply on April 27 to a question in the House of Commons, stated that "the marketing of oil from these properties by British subjects or companies could in the present circumstances be only a matter of embarrassment to His Majesty's Government."[43]

The May 11 communication insisted on payment of an overdue instalment amounting to some $82,000, prescribed by the Anglo-Mexican special claims convention and covering damages suffered by British interests during the 1910-1920 revolutionary period. The note hinted that Mexico's failure to maintain these payments, together with practically complete default on the external debt and the debt of the National Railways, and in addition the unpaid claims for agrarian expropriations, cast doubt on the government's ability to make compensation for the petroleum properties. Two days later the Mexican Secretary of Foreign Affairs, General Eduardo Hay, handed the British Minister a check covering the claims instalment, together with a note which denied Britain "all right to analyze the interior situation of Mexico." At the same time it was announced that the Mexican government had recalled its Minister at London and closed its legation there. The note in its final paragraph carried a sting. In reference apparently to Britain's war-debt delinquency to the United States it called London's attention to "the fact that even powerful States . . . cannot pride themselves on the punctual payment of all their pecuniary obligations." On May 14 Mexico's suspension of relations, which fell short of a complete diplomatic break, was balanced by Britain's withdrawal of its Minister at Mexico City.[44]

38. In the background also were the extensive land seizures in the Laguna region during the fall of 1936. British nationals had been the chief sufferers, but London's protests had brought them no compensation.

39. Great Britain, *Correspondence with the Mexican Government regarding the Expropriation of Oil Properties in Mexico, April 8 to May 20, 1938*, Cmd. 5758 (London, H.M. Stationery Office, 1938).

40. Article 27 of the Mexican Constitution provides that subsoil resources may be exploited by foreigners only if they renounce the right of diplomatic protection should dispute arise with the Mexican government; subsequent attempt to invoke diplomatic protection involves the risk of forfeiting rights and properties.

41-42. Cf. Great Britain, *Correspondence with the Mexican Government*, etc., cited.

43. *New York Herald Tribune*, April 28, 1938.

44. For the text of the two notes exchanged, cf. Great Britain, *Correspondence with the Mexican Government*, etc., cited. Holland and Mexico were also reported to have exchanged a series of notes, concerning seizure of the Aguila Oil Company properties, but none of these was published. Although the Dutch government was stated to have abstained from demanding return of the properties, it reserved its right to present its case anew, and expressed concern that Mexico was selling expropriated oil without awaiting the final decision of the Mexican Supreme Court. *La Prensa* (New York), July 7, 1938.

Meanwhile Mexico had moved to mobilize Latin American support for its expropriation policy. The Mexican Minister at Havana promoted a mass meeting on June 12. Left-wing leaders speaking to some 15,000 persons praised Mexico's nationalist program and urged Cuba to seek "economic liberty" along similar lines. The chief feature of the occasion was a radio address by President Cárdenas from Tampico, in which he called for Latin American solidarity "in the fight for social renaissance" and against foreign imperialism.[45]

Despite the break with London, Mexico continued efforts to come to terms with Washington. The Cárdenas government submitted on May 26 a proposal whose details were closely guarded. But the plan was reported to provide that Mexico's oil exports would be sold to the companies at a price considerably below that prevailing on the world market, the difference to be applied as payment for the expropriated properties.[46]

The principles likely to guide Washington's future policy were laid down in a note dispatched by Secretary Hull on July 21. While this communication referred exclusively to agrarian seizures,[46a] it was believed to forecast a general policy for the United States toward Mexican expropriations. The note contended that expropriation unaccompanied by prompt and adequate payment was contrary to accepted practices of international law, declaring that "the taking of property without compensation is not expropriation. It is confiscation. It is no less confiscation because there may be an expressed intent to pay at some time in the future."

Charging that the Mexican government, although professing support of the principle of compensation, had not observed this principle, the United States proposed arbitration of the question "whether there has been compliance by the Government of Mexico with the rule of compensation as prescribed by international law" in the case of American lands seized since 1927, "and if not, the amount of, and terms under which, compensation should be made by the Government of Mexico." It was suggested that recourse be had to the Inter-American Arbitration Treaty of 1929.[46b]

The Mexican reply of August 3 challenged the American position on international law, declaring that "no principle, universally accepted in theory nor realized in practice, is found in international law which makes obligatory the payment of immediate compensation, nor even deferred compensation, for expropriations of a general and impersonal character," such as had been Mexico's agrarian seizures. It raised by implication the question whether any far-reaching social change can ever be achieved without so-called confiscatory measures. The note denied that foreigners could be given a "privileged situation" as opposed to nationals. Mexico acknowledged nonetheless its responsibility for adequate compensation, but contended that the amount and manner of payment should be determined in connection with its capacity to pay and in accordance with its own laws. Discarding arbitration as applicable when no other method of agreement was available, the note proposed a settlement by bilateral negotiation, suggesting each government name a representative, who together would "fix, within a short period, the value of the properties affected and the manner of paying it."[46c]

CAN MEXICO PAY?

But what is the value of the oil properties? Although estimates current in the press put the total value of British and American holdings at $350,000,000 to $450,000,000—with American properties set at $125,000,000 to $175,000,000 and the British representing the remainder — the companies have published no valuation figures, and it is not clear on what basis those quoted were calculated. More definite information is available concerning actual investments. A Department of Commerce study, based on statistics furnished by the companies themselves, fixed $69,000,000, as the total of direct American investments in the Mexican petroleum industry at the end of 1936.[47] This represented a decline from a figure of $200,000,000 for the end of 1929. On the other hand, the Mexican Industrial Census of 1935 estimated total investments in oil fields and refineries at the end of 1934 (exclusive of oil lands, retail sales agencies or transportation

45. *Noticiero del Lunes* (Havana), and *New York Times,* June 13, 1938.

46. The note was said to outline four possible bases for fixing the amount of compensation: by bargaining; through experts; the Roosevelt formula—actual investment, less depreciation; or taxable value, as provided by Mexican law.

46a. From 1915 to August 30, 1927, some 161 "moderate-sized" properties had been expropriated from American citizens; from that date until the present additional landholdings, with a reported value of $10,132,388, had been taken. For the text of the note, cf. Department of State, *Press Releases,* July 23, 1938.

46b. Earlier, the United States had not been willing to recognize the validity of a 1911 arbitral award, which favored Mexican claims to the Chamizal section of El Paso. Cf. United States, Department of State, *Foreign Relations, 1911,* pp. 565-605.

46c. *New York Times,* August 4, 1938.

47. Paul D. Dickens, "American Direct Investments in Foreign Countries—1936" (U. S. Department of Commerce, Bureau of Foreign and Domestic Commerce, 1938), p. 14. The companies may argue that the $69,000,000 figure did not include the value of oil underground, considered the most valuable asset of a producing company and for which it risks heavy expenditures in leasing, prospecting and drilling.

facilities outside the fields, except pipelines) at 368,000,000 pesos (approximately $100,000,000 at the current rate of exchange). Of this amount, 175,000,000 pesos ($49,000,000) were listed as United States capital and 150,000,000 pesos ($41,000,000) as British-Dutch capital.[48]

Acceptance of Mexico's $100,000,000 figure would require the country to pay—if the debt were to be wiped out within the maximum period of ten years allotted by the expropriation law—annual principal payments of $10,000,000, not to mention interest payments. During the Cárdenas régime, Mexico's total government revenues have run annually between 300,000,000 and 400,000,000 pesos, or roughly $100,000,000. Thus yearly payments on the oil debt would be equivalent to at least one-tenth of the government budget.

There seems no possibility of securing $10,000,000 or anything near it from Mexico's oil exports. For the three years 1934-1936, Mexico's annual petroleum production was valued at 133,000,000 pesos. Exports comprised approximately 60 per cent of production, or an annual estimated value of about 80,000,000 pesos. The government is reported to have ordered one-fifth of export proceeds set aside for indemnification of the companies. On the basis of 1934-1936, this might be estimated at 16,000,000 pesos, which at the present rate of exchange would not total much more than $3,000,000 annually, or at the former rate would approximate $4,500,000.

For the time being, the unwillingness of the petroleum companies to buy oil which they regarded as their own has promoted an almost airtight boycott of Mexican oil in British and American markets. Consequently exports have been materially curtailed. According to available statistics, Mexico exported during April, May and June 2,114,000 barrels of oil, as compared to 5,560,000 barrels for the same period in 1937. It was reported that Germany and Italy had absorbed most of the oil exported since expropriation.[49] On July 6 formal announcement was made of the sale of $10,000,000 worth of Mexican government oil to W. R. Davis and Company of New York City, the bulk of the shipment to go to Germany and Italy and a part to Sweden.

48. These latter figures do not include the item of 37,000,000 pesos for refinery stocks, which was not broken down by nationality holdings. Cf. Secretaría de la Economía Nacional, Dirección General de Estadística, *Segundo Censo Industrial de 1935*, Vol. III, Tomo XLVI (Mexico City, Departamento Autónomo de Prensa y Publicidad, 1937), pp. 13, 36, 76. According to data from the Secretaría de la Economía Nacional, Departamento de Petróleo, the value of the companies' petroleum lands on December 31, 1936 was 108,000,000 pesos.

49. *New York Times*, June 23, 1938.

CONCLUSION

In the Mexican petroleum dispute economic nationalism has openly joined battle with foreign capital. The conflict is significant not alone in itself, but as one episode in a wider struggle which may claim a hemisphere for its stage and half a century possibly for its dénouement. Most of Latin America is astir with a new nationalism. In the past the industrial struggle has been largely cast in the terms of native labor versus foreign capital. But recent years have seen the rise of a small class of native capitalists, who as yet are significant not so much for their own economic strength, as because they can appear as the standard-bearers of the masses in the nationalist crusade against foreign influence. Thus the growth of native capitalism, as well as trends toward state socialism, serves to undermine the position of foreign capital.

Foreign capital may continue to suffer severely from this campaign for "economic independence," unless it eventually succeeds in undercutting the impetus of the nationalist drive by taking native capital into partnership, thus dividing the "patriotic" forces which at present tend to form a common front. But the immediate costs of precipitate action to the republics of Latin America are illustrated by the conditions following expropriation in Mexico. Cárdenas' expropriation move appears to have been particularly ill-timed. At the moment when strategy advised concentration of Mexico's limited economic strength on prosecution of the agrarian reform, labor pressure on the government led to the oil conflict, which endangered the administration's whole social program.

The country's economy was dealt a heavy blow; business confidence received a disquieting shock; the value of the peso dropped from 20 to 25 per cent; the oil workers suffered at least temporary losses in wages and welfare benefits; the government incurred a serious cut in revenue, resulting specifically from the decline in oil taxes, and generally from the deepened depression. Moreover, the expropriation move promised to have significant long-term consequences. Of Mexico's four major petroleum districts—Pánuco (north of Tampico), "The Golden Lane" (south of Tampico), Poza Rica (south of Tuxpam), and the Isthmus of Tehuantepec, three show declining production. Only Poza Rica, to which may be added the "El Plan" field on the Isthmus, is in full development. For approximately the last decade the government has largely denied the grant of new concessions for exploration to foreign companies. Unless Mexico can insure provision of the sums necessary for the drilling and development of existing fields or the

eventual exploitation of new ones, it faces an early and sharp curtailment in production.

The part played by United States diplomacy in the oil controversy has been criticized on two grounds: first, that it failed to bring the two parties together before the dispute came to an open break; and second, that it misled Mexico into believing Washington favored the confiscatory methods of the Cárdenas régime, thus encouraging Mexican leaders to go much farther than they otherwise would have done. In certain quarters part of the difficulty was attributed to the rôle assumed by the United States Ambassador at Mexico City. The desire of the Roosevelt administration under the Good Neighbor policy to avoid even the appearance of diplomatic interference may provide at least a partial explanation on the first point. It is open to question whether anything short of decisive pressure would have sufficed to achieve a compromise solution. With regard to the second point, Washington has been pressing Mexico for satisfaction of agrarian claims since the summer of 1937. President Cárdenas can hardly have missed the significance of the storm signals which have been flying at the State Department for more than a year. Other critics attack the Department for imposing on Mexico a more rigid standard of accountability than that applied to other nations, whose governmental policies have caused heavy losses to American capital.[50]

For the United States, the Cárdenas expropriation presented the most severe test yet offered to the Good Neighbor policy. It raised the question whether Washington could retain Latin American friendship only at the cost of heavy losses to the investments of its nationals in the area. The Mexican government declared itself unwilling to return the oil properties; and was clearly unable to make immediate payment. Its capacity even for deferred payment on any extensive scale was viewed with considerable skepticism.

One school called on Washington to align itself with London in demanding the return of the properties. According to the companies, the expropriation move was neither in accord with Mexican law nor with international law. They charged that in the absence of prompt and adequate payment, Mexico's policy was frankly confiscatory. It was argued, therefore, that the principles of international law could only be upheld and other countries warned against Mexico's example by a demand of the United States for return of the properties.

50. These critics cite not so much the numerous Latin American debt defaults during the world depression, as the action of President Vargas in November 1937, taking Brazil from partial into complete default, and German policies on foreign exchange.

But the State Department apparently recognized that other factors, not included in the analysis just reviewed, had to be taken into acount. Mexico's social revolution was viewed as a movement of fundamental significance, which promised eventually to achieve greater stability for the country. Moreover, President Cárdenas had identified his administration so closely with the expropriation policy, that it seemed doubtful whether he could restore the properties without committing political suicide; and civil strife in Mexico—perhaps involving an ideological conflict similar to that in Spain—was the last thing that Washington desired. Finally, in the present world situation it was important for the United States to conserve the fruits of the Good Neighbor policy, and maintain the fullest degree of friendship with Latin America.

In consequence Washington did not demand directly the return of the properties, but instead sustained the contention that expropriation could only be legalized by prompt and adequate compensation. It avoided the appearance of pressure while giving time for diplomatic conversations. Its note of July 23 at last suggested the future course of United States policy. Although this communication referred only to agrarian seizures and did not mention the oil question, there seemed little doubt that the principles laid down therein would apply to the petroleum dispute. First, the United States demanded effective compensation for the properties taken. Second, it indicated its willingness to accept arbitration by an inter-American agency. The arbitration proposal offered a course by which the United States could defend the rights of its nationals abroad, maintain its record of insistence on the observation of international commitments, and establish a precedent for possible future controversies with other countries. It would also permit Washington to suggest a similar procedure to London, thus avoiding the danger of a challenge to the Monroe Doctrine. At the same time, the decision to use legal means rather than diplomatic pressure or economic coercion minimized the threat of a hostile reaction from Latin America. Mexico's counter-suggestion of direct negotiations on August 3 revealed differences with Washington both as to international principles governing expropriation and practical procedures for settling the controversy. Unless negotiations can discover an acceptable middle ground, both nations may face difficult dilemmas. For the United States, the choice may lie between losses in its investments or impairment of Latin American friendship. Mexico may be forced to decide between slowing up its revolutionary program or risking a decisive change in policy on the part of the United States.